

After Recording Return to:

RDALE 85, LLC.  
P.O. Box 2506  
Peachtree City, Georgia 30269

CROSS-REFERENCE: Deed Book: 10262  
Page: 427

FILED  
CLAYTON COUNTY, GA  
2017 MAR 28 PM 4:15  
JACQUILINE D. WILLS  
CLERK SUPERIOR COURT  
7220

### Environmental Covenant

This instrument is an Environmental Covenant executed pursuant to the Georgia Uniform Environmental Covenants Act, OCGA § 44-16-1, *et seq.* This Environmental Covenant subjects the Property identified below to the activity and/or use limitation specified in this document. The effective date of this Environmental Covenant shall be the date upon which the fully executed Environmental Covenant has been recorded in accordance with OCGA § 44-16-8(a).

**Fee Owner of Property/Grantor:**

RDALE 85, LLC  
P.O. Box 2506  
Peachtree City, Georgia 30269

**Grantee/Holder:**

RDALE 85, LLC  
P.O. Box 2506  
Peachtree City, Georgia 30269

**Grantee/Entity with  
express power to enforce:**

State of Georgia  
Department of Natural Resources  
Environmental Protection Division  
2 Martin Luther King Jr. Drive, SE  
Suite 1456 East Tower  
Atlanta, GA 30334

**Parties with interest in the Property:**

RDALE 85, LLC  
P.O. Box 2506  
Peachtree City, Georgia 30269  
  
THG PROPERTIES, LLLP (MANAGER)  
P. O. BOX 2506  
PEACHTREE CITY, GA. 30269

**Property:**

BK 1062PG093

The property subject to this Environmental Covenant is the Commercial Property located at 7986 GA Hwy 85 in Riverdale, Clayton County, Georgia 30274 (hereinafter "Property"). This tract of land was conveyed on December 20, 2012 from THG Properties LLLP to RDALE 85, LLC recorded in Deed Book 10262, Page 427, Clayton County Records. The area is located in Land Lot 215 of the 13th District of Clayton County, Georgia. The property is 1.39 acres with strip shopping stores. A complete legal description of the area is attached as Exhibit A and a map of the area is attached as Exhibit B.

**Tax Parcel Number(s):**

13215C B001, Clayton County, Georgia

**Name and Location of Administrative Records:**

The corrective action at the Property that is the subject of this Environmental Covenant is described in the following document[s]:

Hana Convenience Store Property, HSI Site Number 10563  
Compliance Status Report dated July 18, 2016.

These documents are available at the following locations for HSI No. 10563.

Georgia Environmental Protection Division  
Response and Remediation Program  
2 MLK Jr. Drive, SE, Suite 1054 East Tower  
Atlanta, GA 30334  
M-F 8:00 AM to 4:30 PM excluding state holidays

**Description of Contamination and Corrective Action:**

This Property has been listed on the state's hazardous site inventory and has been designated as needing corrective action due to the presence of hazardous wastes, hazardous constituents, or hazardous substances regulated under State law. Contact the property owner or the Georgia Environmental Protection Division for further information concerning this Property. This notice is provided in compliance with the Georgia Hazardous Site Response Act.

This Declaration of Covenant is made pursuant to the Georgia Uniform Environmental Covenants Act, O.C.G.A. § 44-16-1 *et seq.* by RDALE 85, LLC, its successors and assigns, and the State of Georgia, Department of Natural Resources, Environmental Protection Division (hereinafter "EPD"), its successors and assigns. This Environmental Covenant is required because a release of acetone, benzene, carbon disulfide, cis-1,2-dichloroethene, ethylbenzene, methyl ethyl ketone, naphthalene, tetrachloroethene, toluene, trichloroethene, and xylenes occurred on the Property. Acetone, benzene, carbon disulfide, cis-1,2-dichloroethene, ethylbenzene, methyl ethyl ketone, naphthalene, tetrachloroethene, toluene, trichloroethene, and xylenes are "regulated substances" as defined under the Georgia Hazardous Site Response Act,



O.C.G.A. § 12-8-90 *et seq.*, and the rules promulgated thereunder (hereinafter "HSRA" and "Rules", respectively). The Corrective Action consists of institutional controls limiting the property to non-residential use and prohibiting the extraction of groundwater from beneath the property for non-remedial purposes.

Grantor, RDALE 85, LLC, hereby binds Grantor, its successors and assigns to the activity and use restriction for the Property identified herein and grants such other rights under this Environmental Covenant in favor of the RDALE 85, LLC and EPD. EPD shall have full right of enforcement of the rights conveyed under this Environmental Covenant pursuant to HSRA, O.C.G.A. § 12-8-90 *et seq.*, and the rules promulgated thereunder. Failure to timely enforce compliance with this Environmental Covenant or the use or activity limitations contained herein by any person shall not bar subsequent enforcement by such person and shall not be deemed a waiver of the person's right to take action to enforce any non-compliance. Nothing in this Environmental Covenant shall restrict EPD from exercising any authority under applicable law.

RDALE 85, LLC makes the following declaration as to limitation, restriction, and use to which the Property may be put and specifies that such declaration shall constitute a covenant to run with the land, pursuant to O.C.G.A. § 44-16-5(a); is perpetual, unless modified or terminated pursuant to the terms of this Covenant pursuant to O.C.G.A. § 44-16-9 and 10; and shall be binding on all parties and all persons claiming under them, including all current and future owners of any portion of or interest in the Property (hereinafter "Owner"). Should a transfer or sale of the Property occur before such time as this Environmental Covenant has been amended or revoked then said Environmental Covenant shall be binding on the transferee(s) or purchaser(s).

This Environmental Covenant shall inure to the benefit of RDALE 85, LLC, EPD, and their respective successors and assigns and shall be enforceable by the Director or his agents or assigns, or its successors and assigns, RDALE 85, LLC or its successors and assigns, and other party(ies) as provided for in O.C.G.A. § 44-16-11 in a court of competent jurisdiction.

#### **Activity and/or Use Limitation**

1. **Registry.** Pursuant to O.C.G.A. § 44-16-12, this Environmental Covenant and any amendment or termination thereof, may be contained in EPD's registry for environmental covenants.
2. **Notice.** The Owner of the Property must give thirty (30) day advance written notice to EPD of the Owner's intent to convey any interest in the Property. No conveyance of title, easement, lease or other interest in the Property shall be consummated by the Owner without adequate and complete provision for continued monitoring, operation, and maintenance of the Corrective Action. The Owner of the Property must also give thirty (30) days advance written notice to EPD of the Owner's intent to change the use of the Property, apply for building permit(s), or propose any site work that would affect the Property.



3. Notice of Limitation in Future Conveyances. Each instrument hereafter conveying an interest in the Property subject to this Environmental Covenant shall contain a notice of the activity and use limitations set forth in this Environmental Covenant and shall provide the recorded location of the Environmental Covenant.
4. Activity and Use Limitation(s). The Property shall be used only for non-residential uses as defined in Section 391-3-19-02 of the Rules and defined in and allowed under Clayton County's zoning regulations as of the date of this Environmental Covenant. Any residential use of the property shall be prohibited. Any activity on the Property that may result in the release or exposure to the regulated substances that were contained as part of the Corrective Action, or create a new exposure pathway, is prohibited.
5. Groundwater Limitation. The use or extraction of groundwater beneath the Property for drinking water or for any other non-remedial purposes shall be prohibited.
6. Right of Access. In addition to any rights already possessed by EPD and/or RDALE 85, LLC, the Owner shall allow authorized representative of EPD and/or RDALE 85, LLC the right to enter the Property at reasonable times for the purpose of evaluating the Corrective Action; to take samples, to inspect the Corrective Action conducted at the Property, to determine compliance with this Environmental Covenant, and to inspect records that are related to the Corrective action.
7. Recording of Environmental Covenant and Proof of Notification. Within thirty (30) days after the date of the Director's signature, the Owner shall file this Environmental Covenant with the Recorder of Deeds for Clayton County and send a file stamped copy of this Environmental Covenant to EPD within thirty (30) days of such recording. Within that time period, the Owner shall also send a file-stamped copy to each of the following: (1) RDALE 85, LLC, (2) each person holding a recorded interest in the Property subject to the covenant, (3) each person in possession of the real property subject to the covenant, (4) each municipality, county, consolidated government, or other unit of local government in which real property subject to the covenant is located, and (5) each owner in fee simple whose property abuts the property subject to the Environmental Covenant.
8. Termination or Modification. The Environmental Covenant shall remain in full force and effect in accordance with the O.C.G.A. § 44-16-1 et seq., unless and until the Director determines that the Property is in compliance with the Type 1 or 2 Risk Reduction Standards, as defined in Georgia Rules of Hazardous Site Response (Rules) Section 391-3-19-.07, whereupon the Environmental Covenant may be amended or revoked in accordance with Section 391-3-19-08(7) of the Rules and O.C.G.A. § 44-16-1 et seq.
9. Severability. If any provision of this Environmental Covenant is found to be unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.
10. No EPD Interest in Property Created. This Environmental Covenant does not in any way create any interest by EPD in the Property that is subject to the Environmental Covenant. Furthermore, the act of approving this Environmental Covenant does not in any way create any interest by EPD in the Property in accordance with O.C.G.A. § 44-16-3(b).

**Representations and Warranties.**

Grantor hereby represents and warrants to the other signatories hereto:

- a) That the Grantor has the power and authority to enter into this Environmental Covenant, to grant the rights and interests herein provided and to carry out all obligations hereunder;
- b) That the Grantor is the sole owner of the Property and holds fee simple title which is free, clear, and unencumbered.
- c) That the Grantor has identified all other parties that hold any interest (e.g. encumbrance) in the Property and notified such parties of the Grantor's intention to enter into this Environmental Covenant;
- d) That this Environmental Covenant will not materially violate or contravene or constitute a material default under any other agreement, document or instrument to which Grantor is a party, by which Grantor may be bound or affected.
- e) That the Grantor has served each of the people or entities referenced in activity 8 above with an identical copy of this Environmental Covenant in accordance with O.C.G.A. § 44-14-4(d).
- f) That this Environmental Covenant will not materially violate or contravene any zoning law or other law regulating use of the Property; and
- g) That this Environmental Covenant does not authorize a use of the Property that is otherwise prohibited by a recorded instrument that has priority over the Environmental Covenant.

**Notices.**

Any document or communication required to be sent pursuant to the terms of this Environmental Covenant shall be sent to the following persons:

Georgia Environmental Protection Division  
Branch Chief  
Land Protection Branch  
2 Martin Luther King Jr. Drive SE  
Suite 1054 East Tower  
Atlanta, GA 30334

RDALE 85, LLC  
P.O. Box 2506  
Peachtree City, Georgia 30269

Grantor has caused this Environmental Covenant to be executed pursuant to The Georgia Uniform Environmental Covenants Act, on the 14<sup>th</sup> day of NOVEMBER, 2016.

BK11062PG097



Signed, sealed, and delivered in the presence Of:

For the Grantor:

Joanne Phillips  
Unofficial Witness (Signature)

Joanne Phillips  
Unofficial Witness Name (Print)

555 Highway 74 S

Peachtree City GA 30269  
Unofficial Witness Address (Print)

Sharon Elaine Kempson  
Notary Public Signature

My Commission Expires: 12-10-18

RDALE 85 LLC  
Name of Grantor (Print)

M. Michael Hyle (Seal)  
Grantor's Authorized Representative

M. Michael Hyle  
Authorized Representative Name (Print)

MEMBER/MANAGER  
Title of Authorized Representative (Print)

SEAL

Dated: 11/14/16  
(Notary Seal)

Signed, sealed, and delivered in the presence of:

Sydney Brogden  
Unofficial Witness (Signature)

Sydney Brogden  
Unofficial Witness Name (Print)

2 MLK<sup>JR</sup> Dr SE, Atlanta, GA 30334  
Unofficial Witness Address (Print)

Mona A Ingram  
Notary Public Signature

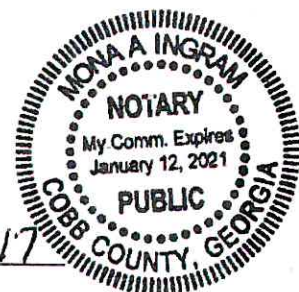
My Commission Expires: Jan. 12, 2021

For the State of Georgia  
ENVIRONMENTAL PROTECTION DIVISION:  
R. E. Dunn (Seal)  
(Signature)

Richard E. Dunn

Director

Dated: 3/13/2017



Dated: March 7, 2017  
(Notary Seal)

REPRESENTATIVE ACKNOWLEDGEMENT

STATE OF Georgia  
COUNTY OF Fayette

On this \_\_\_\_\_ day of MARCH, 2017, I certify that W. Michael Hyde personally appeared before me, acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute this instrument, and acknowledged it as the Member/Manager [type of authority] of RDALF 85, LLC [name of party being represented] to be the free and voluntary act and deed of such party for the uses and purposes mentioned in the instrument.

Sharon Elaine Kemprow  
Notary Public in and for the State of Georgia,  
residing at 1957 River Road, Concord,  
Georgia 30206  
My appointment expires 12-10-18.

SEAL

BK11062PG099

Exhibit A  
Legal Description

ALL THAT TRACT or parcel of land lying and being in Land Lot 215 of the 13<sup>th</sup> District of Clayton County, Georgia, being more particularly described as follows:

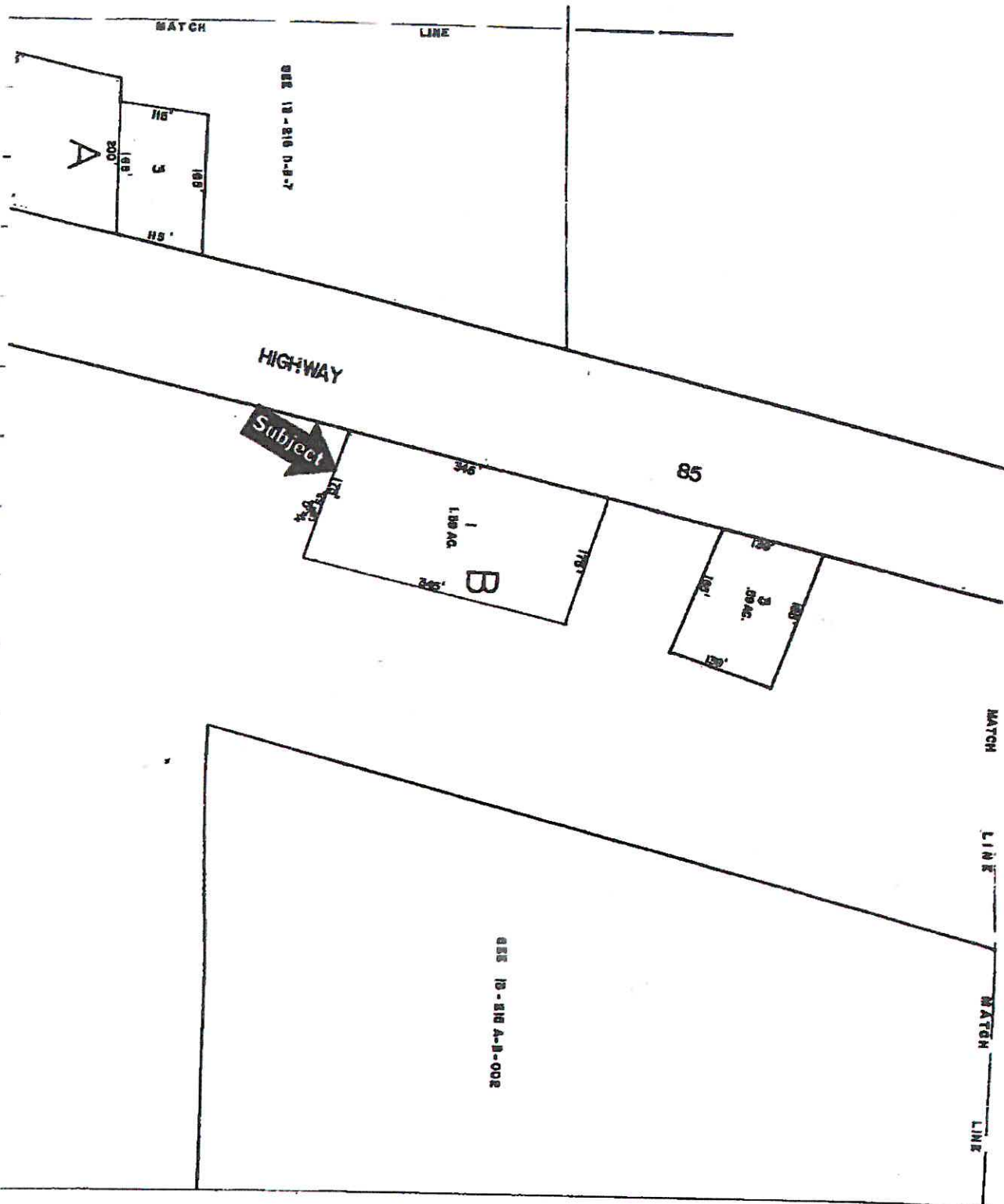
BEGINNING at an iron pin found on the easterly right of way line of Georgia Highway 85 (having a 170 foot right of way), said iron pin being located 1, 128.95 feet northerly from the intersection of the northerly right of way line of Webb Road with the easterly right of way line of Georgia Highway 85; thence running north 14 degrees 17 minutes 46 seconds east, along the easterly right of way line of Georgia Highway 85, a distance of 345.00 feet to a spike found; thence leaving said right of way line and running south 75 degrees 42 minutes 14 seconds east, a distance of 175.00 feet to a pk found; thence running south 14 degrees 17 minutes 46 seconds west, a distance of 345.00 feet to an iron pin found; thence running north 75 degrees 42 minutes 14 seconds west, a distance of 175.00 feet to an iron pin found on the easterly right of way line of Georgia Highway 85 and the Point of Beginning; containing 1.3860 acres as shown on plat of survey for Old Republic National Title Insurance Company, Omni Fuels Company, Inc. and PMC Capital, Inc., made by Mathis Surveyors, Inc., bearing the seal of W. Glenn Mathis, Ga. R.L.S. No. 1244, dated September 27, 1999.



# Exhibit B TAX PLAT

Clayton, GA 1998-99 - 13-215C, Sheet 1 of 1

13-216D



BK 11062PG101